Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

No.

IN THE

UNITED STATES SUPREME COURT

JAMES HENRY DENEAL

PETITIONER

V.

RONNY SHAVER

RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI TO THE CALIFORNIA COURT OF APPEAL FOURTH APPELLATE DISTRICT DIVISION THREE

PETITION FOR WRIT OF CERTIORARI

JAMES HENRY DENEAL: PRO SE

7451 WANER AVE. UNIT #156

HUNTINGTON BEACH CA. 92647

(a). QUESTIONS PRESENTED:

(1). Whether a recovering drug addict who is the sole proprietor automotive mechanic violated the American Disability Act of 1990 and Its' Amendment; when he entered into a oral contract to remove the V-12 engine from the car and replaced the oil filter head housing, a strenuous job compared to high school extracurricular activities without being conspicuous with respect to his physical and mental disabilities from using illegal and prescription narcotic drugs; a recovering illegal drug abuser.

(2). Whether a recovering drug addict who is the sole proprietor is qualified automotive mechanic under the American Disability Act while currently using illegal narcotics more specifically cocaine, showing visual effects of ACROMEGALY disease (long mandible and hands). And a mental disposition of

morbid apathy where there is a absence of or an indifference to reason.

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(b). PARTIES TO THE PROCEEDINGS:

James Henry DENEAL

Ronny Shaver, Respondent

Thomas R. NIGRO, Attorney Of Record..

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(e). STATEMENT OF JURISDICTION:

The Supreme Court of California case # S173711, sitting En Banc Chief Justice George, denied Plaintiff/Appellant petition for review from the California Court of Appeals fourth appellate district division three; where the petition for Rehearing was denied by Rylaarsdam, J.; Acting P.J.; We Concur

Justices Moore, J.; and Ikola, J.:, and affirming the judgment Vexatious Litigant and dismissing the case for not paying $25,000.00 dollars. Ordered by the State of California Superior Court County of Orange presiding Judge Peter J. Polos. The Court of Appeals of the state of California "(AFFIRMED)": The United States Supreme Court has jurisdiction under 28 USC SECTION 1254(1), TO REVIEW CASES IN THE COURT OF APPEALS BY THE FOLLOWING METHODS: BY WRIT OF CERTIORARI, GRANTED UPON THE PETITION OF ANY PARTY TO ANY CIVIL CASE, BEFORE OF AFTER RENDITION OF JUDGMENT OR DECREE.

TIME FACTORS: (i—v)

(i). The date the order sought to be reviewed was entered (May 20, 2008) in the State of California Superior Court and (April 30, 2009 in the California Court of Appeals fourth appellate district division

three and (July 8, 2009 in the Supreme Court of California): Rule 11 does not apply.

(ii). THE DATE ANY ORDER RESPECTING REHEARING, and the date and term of any order granting an extension of time to file the petition for writ of certiorari; (California Supreme Court denied review July 8, 2009)(CALIFORNIA COURT OF APPEALS FOURTH APPELLATE DISTRICT DIVISION THREE; denied rehearing on June 1, 2009). The Date and term of any order granting an extension of time to file the petition for writ of certiorari, is 60 days; December, 13, 2009.

(iii). Express reliance on rule 12.5, when a cross petition for a writ of certiorari is filed under that rule. (Rule 12.5 does not apply).

(iv). The statutory provision believed to confer on this court's jurisdiction to review on the writ of certiorari the judgment or order in question; The

statutory involved is the American Disability Act of 1990 and Its' Amendment.

(v). If applicable a statement that the notifications required by rule 29.4(b) or (c) have been made. (Does not apply).

(f). The Constitutional provisions, Treaties, Statutes, Ordinances, and Regulations involved in the case, set out verbatim with appropriate citation. If the provisions involved are lengthy, their citation alone suffices at this point, and their pertinent text, shall be set out in the appendix referred to in subparagraph 1(i)

CONSTITUTIONAL PROVISIONS: CITATION:

(1). United States Fourteenth Amendment: Section 1; All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the state

where they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States. Nor shall any state deprive any person of life, liberty or property, without due process of the law, nor deny to any person within jurisdiction the equal protection of the law.

STATUTES: CITATION;

(1). 28 U.S.C. SECTION 1254(1). Court Of Appeals: Certiorari; Certified Question:

(A). Cases in the Court Of Appeals may be reviewed by the Supreme Court by the following method; by Writ Of Certiorari; granted upon the petition of any party to any civil case, before or after rendition of judgment or decree.

(2). 42 USCS 12102(2)(A)(B)(C)—American Disability Act of 1990 and Its' Amendment. The term

disability means with respect to an individual (A) a physical or mental impairment that substantially limits one or more of major life's activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment. Major life activities include functions such as caring for oneself, performing manual task, walking, seeing, hearing, speaking, breathing, learning, and working.

(3). 42 USCS 12113(a)(b); DEFENSES

(4). 42 U.S.C. SECTION 12114. ILLEGAL USE OF DRUGS AND ALCOHOL.(a)(b)(c)(d)(e);

(a). QUALIFIED IDIVIDUAL WITH A DISABILITY. For purpose of this title, the term qualified individual with a disability" shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b). RULE OF CONSTRUCTION. Nothing in

subsection (a) shall be construed to exclude as a qualified individual with a disability an individual who (1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in such use;

(2). Is participating in a supervised rehabilitation program and is not engaging in such use; or

(3). Is erroneously regarded as engaging in such use; Except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs.

(c). AUTHORITY OF COVERED ENTITY.

(1). may prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees.

(2). may require that employees shall not be under

the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

(3). may require that employees behave in conformance with the requirements established under the drug-free workplace Act of 1988 (41 U.S.C. 701 et. seq.);

(4). May hold an employee who is engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee; and

(5). May with respect to Federal regulations regarding alcohol and the illegal use of drugs, require that (A). employees comply with the standards established in such regulations of the Department of Defense, if the employees of the

covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive potions in such an industry, in the case of employees of the covered entity who are covered employed in such positions (as defined in the regulations of the Department of Defense);

(B). employees comply with the standards established in such regulations of the Nuclear Regulatory Commission, if the employees of the covered entity are employed in an industry subject to such regulation, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Nuclear Regulatory Commission); and

(C). employees comply with the standards

established in such regulations of the department of Transportation, if the employees of the covered entity are employed in the transportation industry subject to such regulations, including complying with such regulations (if any) that apply to employment in sensitive positions in such industry, in the case of employees of the covered entity who are employed in such positions (as defined in regulations of the Department of Transportation). (d). DRUG TESTING. (1). In general. For the purpose of this title, a test to determine the illegal use of drugs shall not be considered a medical examination. (2). Construction. Nothing in this title shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on such test results.

(e). TRANSPORTATION EMPLOYEES. Nothing in this title shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise by entity subject to the jurisdiction of the Department of transportation of authority to_

(1). Test employees of such entities in, and applicant's for, position involving safety—sensitive duties for illegal use of drugs and for on—duty impairment by alcohol; and

(2). Remove such persons who test positive for illegal use of drugs and on-duty impairment by alcohol pursuant to paragraph (1) from safety—sensitive duties in implementing subsection (c).

TREATIES: CITATION:

(1). Does Not Apply.

ORDINANCES: CITATION:

(1). Does Not Apply.

REGULATIONS: CITATION:

(1). Does Not Apply.

(g). A Concise Statement of the Case, setting out the facts material to the consideration of the questions presented, also containing the following.

(i). If the review of a State-Court judgment is sought, specification of the stage in the proceedings, both in the Court of first instance and in the Appellate Court, when the federal question sought to be reviewed were raised; the method or manner of raising them and the way in which they were passed on by those courts; and the pertinent quotations of specific portions of the record or summary thereof, with specific reference to ;lace in the record where the matter appears (e.g., court opinion, ruling on exception thereto, assignment of error), so as to show that the federal was timely and properly raised and

that this court has jurisdiction to review the judgment on a Writ of Certiorari. When the portion of the record relied on under this subparagraph are voluminous, they shall be included in the appendix referred to in subparagraph 1(i).

(1). I James Henry DENEAL, Petitioner's character; I am not a drug addict nor a controlled substance user, I am free; free from the use of illegal and prescription narcotic drugs and I have a blood type of "AB" the best possible blood type that a person can have. [App.38]

(2). Premise Factual: Respondent's character; from eyesight is a drug addict using the illegal and prescription narcotic drugs; cocaine, heroin, LSD; and the prescription narcotic used to treat his illegal addiction methadone: PROOF: showing visual effects from the use of illegal and prescription narcotic drugs; more specific ACROMEGALY disease (long

mandible and hands): Causing him to have a physical and mental disability of recovering drug addict.[APP.53]

(3). Premise legal: and causing him to Breach Contract under Civil Code section 3300; and perpetrate a automotive repair sham on Petitioner. Because he is not qualified as a automotive mechanic while using the illegal narcotic drug cocaine and his qualified immunity is abandon under the American Disability Act of 1990 and its' Amendment. Proof; Respondent has visual effects of (ACROMEGALY disease, long mandible and hands) from using the illegal narcotic cocaine.[APP.53]

(4). Premise legal: Superior Court of the State of California ordered Petitioner not to plead his claim about the illegal and prescription narcotic use causing a physical and mental condition of Respondent or his Attorney that has caused his

family physician to report him to the city's District Attorney Office under the California Uniform Controlled Substance Abuse Act. 11218, for being treated for addiction to a illegal narcotic drug and prescribed for methadone. Proof: Respondent from eyesight has diseases of (ACROMEGALY and PHYSIOLOGICAL SKIN).[APP.21]

(5). Premise Legal: Petitioner and Respondent made an oral contract to remove the V-12 engine from the classic 1985 Jaguar XJS car and replace the oil filter head housing with the new one that Petitioner purchased from the Dealership with no diagnosis to be involved; for the amount of three thousand dollars ($3,000.00): Respondent refused to replace it. Proof: saying in his deposition that he determine that a worn cam cover gasket on the left side of the engine was leaking not the oil filter head housing; when he was not authorized to do a

diagnosis for repair. [App.53]

(6). Premise factual: Respondent because he has a physical and mental disability of being a recovering drug addict; presented an impossible mechanical procedure for removing and replacing the oil filter head housing on the V-12 engine; a magical mechanic, mechanical procedure performed by Respondent that no one else can do, cited on work order No. 1505; with a forged Petitioner signature authorizing the repair is a sham. Respondent is of the opinion that the mechanical procedure used in the Jaguar XJS –V-12 repair manual was correct for removing and replacing the oil filter head housing on the V-12 engine. This procedure is not correct. Proof: because Petitioner tried it and it does not work, and this is the reason I asked him to replace the oil filter head housing, the manual says to drop the exhaust manifold down pipe and remove the tail pipe to

remove the oil filter head housing on the V-12 engine the exact same mechanical procedure respondent cited on his work order No.1505: This mechanical repair procedure does not work; because the oil filter head housing is too close to the fire wall on the driver's side of the car so that the bolts that secure the oil filter head housing cannot be unscrewed. [App. 60].

(7). Premise Factual: Petitioner test drove the car and found that Respondent had not made any repairs on the V-12 engine. Proof: (A) the oil filter head housing leaked oil, (B) the car's radiator ran hot, (C) the electric radiator fan did not work, (D) the car's "RPM" indicator did not work, (E) the air conditioner did not work, (F) the power steering hose needed to be replaced because it lacked insulation (G) the car needed a tune up.

(8). Premise Factual: The California Court Of

Appeal has affirmed The Superior Court Judgment declaring Petitioner a Vexatious Litigant C.C.P. section 391.4; a miscarrage of justice: Proof: there is no proof that addiction to illegal and prescription narcotic drugs are irrelevant to this case or any other Breach of contract case; also there is no proof Respondent and his Attorney's medical condition is not relevant to this case from using illegal and prescription narcotic drugs for pass 60 years which indicates a diagnosis of palliative (where there is no quadratic procedure for curative treatment; just make the illegal drug addiction painless). While Petitioner seek to gather characteristic and indictment information on Respondent. [App.53]

(9). In the decision below, an en banc panel of the California Supreme Court and Chief Justice George; denied Petitioner's petition for review from the California Court of Appeal Fourth Appellate District

Division Three; where Petitioner petitioned for rehearing was denied and the judgment for Vexatious Litigant was affirmed dismissing all issues of the case because Petitioner did not pay in the Superior Court of the State of California County of Orange $25,000.00 twenty five thousand dollars. Alleging James Henry DENEAL filed motions that were meritless and the complaint was demurrer and sustain with leave to amend. While seeking and demanding character and indictment information on Respondent in the court of first instance the Superior Court of the state of California County of Orange, with the complaint for damages under vehicle code section 10851 tampering with a vehicle, 10852 malicious mischief to a vehicle, and 10683 unlawful driving or taking of vehicle without the consent of owner, to identify Respondent's physical and mental disability by direct evidence code section

410. Arising the first Federal question of the "AMERICAN DISABILITY ACT OF 1990 AND ITS' AMENDMENT.

(1). Whether a recovering drug addict who is the sole proprietor automotive mechanic violated the American Disability Act of 1990 and Its' Amendment. When he entered into an oral contract to remove the V-12 engine from the classic Jaguar XJS car and replace the oil filter head housing; a strenuous job compared to high school extracurricular activities, without being conspicuous with respect to his physical and mental disability from using illegal and prescription narcotic drugs; A recovering illegal drug user.

(2). Whether a recovering drug addict who is the sole proprietor automotive mechanic is a qualified automotive mechanic under American Disability Act of 1990 and Its' Amendment, while currently using

illegal narcotic, more specific cocaine. Showing visual effect from using illegal and prescription narcotic drugs of (ACROMEGALY DISEASE (long mandible and hands): and a deposition of morbid apathy where there is a absence of or an indifference to reason.

(a). How sought under vehicle code violation, a motion was filed compelling Respondent to take a narcotic drug test in accordance with SMITHKLINE BEECHAM Clinical Laboratories Toxicology Drug test, so as to show narcotic drug addiction and controlled substance abuse, under direct evidence code section 410. [App. 14].

(b). How Sought under vehicle code violation. A motion was filed compelling Respondent physician to communicate diagnosis or preventive or curative treatment for his physical or mental or emotional condition, under evidence code section 410, so as to

verify his recovery. [App. 14].

(c). How sought under vehicle code violation; a motion was filed compelling Respondent to participate in the Asylum's Saint Elizabeth Mental Health Services, Under Title 24 U.S.C.S. 225, Asylum. [App. 14].

(d). The California Superior Court County of Orange with respect to vehicle code violations 10851, 10852, 10853; Ruling, determined the foregoing motions were irrelevant and lack authority. [App.14]

(e). Assignment of Error under vehicle code violation: California Superior Court County of Orange; Judge DENNIS S. CHOATE denied Petitioner his Constitutional right under the Fourteen Amendment section 1 Due Process and Equal Protection where he refused characteristic and indictment information on Respondent. Because

Respondent cannot be support by the Judge Choate, because Respondent deny that he has a physical and mental disability and also because Respondent has a record of illegal and prescription narcotic drugs addiction that has been documented by the Santa Ana CA. District's Attorney Office; when reported by his physician and psychotherapist. [App. 14].

(e) Assignment of Error under vehicle code violation: Judge Choate also alleged that Petitioner filed irrelevant motion while seeking and demanding character and indictment information on Respondent to identify his physical and mental disability under the American Disability Act of 1990 and its' Amendment; by evidence code section 410. In the Court of first instance California Superior Court County of Orange with the Second Amended Complaint for damages under Breach of Contract, Civil code Section 3300, where Respondent refuse to

replace the oil filter head housing on the V-12 engine with the new one Petitioner purchased from the Dealership. Arising The First Federal Question with respect to Breach of Contract.

(1). Whether a recovering drug addict who is the sole proprietor automotive mechanic violated the American Disability Act of 1990 and its' Amendment when he entered into an oral contract to remove the V-12 engine from the Jaguar XJS car to replace the oil filter head housing, a strenuous job compared to high school extracurricular activities; without being conspicuous with respect to his physical and mental disability from using illegal and prescription narcotic drugs, a recovering illegal drug abuser.

(2). Whether a recovering drug addict who is the sole proprietor automotive mechanic is a qualified mechanic under the American Disability Act of 1990 and Its' Amendment; while currently using the

illegal narcotics more specifically cocaine, showing visual effects of ACROMEGALY Disease (long mandible and hands). And a mental disposition of morbid apathy where there is a absence of or indifference to reason.

(a). How Sought under Breach of Contract; a motion was filed compelling Respondent to take a narcotic drug test in accordance with SMITHKLINE BEECHAM Clinical Laboratories Toxicology drug test, under evidence code section 410.[APP.17]

(b). How Sought under Breach of Contract; A motion was filed compelling Respondent physician and psychotherapist to communicate diagnosis or preventive or palliative or curative treatment of his physical or mental or emotional condition, under evidence code section 410. [App.17]

(c). How Sought under Breach of Contract; A motion was filed compelling Respondent participate

the Asylum's Saint Elizabeth Hospital mental heath services, under Title 24 U.S.C.S. 225, Asylum.

(d). How Sought under Breach of contract; A motion was filed to invoked judicial Notice for illegal narcotic drug addiction violating The Department of Food and Drug administration U.S.C. Title 21 section 221; in opposition to Respondent's motion for summary judgment. [no ruling]

(e). How sought under Breach of Contract; A motion was filed to invoke judicial Notice for California Uniform Controlled Substance Abuse Act section 11218. in opposition to Respondent's motion for summary judgment or adjudication.[no ruling]

(f). The ruling from California Superior Court County of Orange with respect to Second amended Complaint for damage under Breach of Contract, civil code section 3300 motions were irrelevant with no authority was mentioned nor advised. [APP.17]

(g). Assignment of Error under Breach of Contract: California Superior Court County of Orange. Judge Abbott denied Petitioner Constitutional rights under the Fourteenth Amendment section 1; Due process of law and equal protection.

(h). Assignment of Error under Breach of Contract . California Court of Appeals Fourth Appellate District Division Three. Justices Rylaarsdam, Acting P.J.: WE CONCUR—Moore, J.; Ikola,: Alleged that Petitioner filed meritless motion while seeking and demanding character and indictment information on Respondent; while appealing the California Superior Court judgment under Vexatious Litigant section 391.et. in the California Court Of Appeals Fourth Appellant District Division Three in Santa Ana California; to identify Respondent's physical and mental disability,

under the American Disability Act. Of 1990 and its' Amendment.

(a). How Sought in the California Court of Appeals Fourth Appellate district Division Three; A motion was filed compelling Respondent to take a narcotic drug test in accordance with SMITHKLINE BEECHAM Clinical Laboratories Toxicology drug test. Under California Rule of Court 8.252(b). Factual Determination of Ronny Shaver's illegal narcotic drug addiction. [APP.1]

(b). How Sought, in California Court of Appeals Fourth Appellate District Division Three. A motion was filed compelling Respondent's physician and psychotherapist to communicate diagnosis or preventive or palliative or curative treatment for Respondent's physical or mental or emotional condition, under California Rule of Court 8.252(b) Factual Determination of Ronny Shaver's narcotic

drug addiction. [App. 1].

(c). How Sought in the California Court of Appeal Fourth Appellate District Division Three. A motion was filed compelling Respondent to participate in the Asylum's Saint Elizabeth hospital mental health service, under California Court Rule 8.252(b)

(d). How Sought in the California Court of Appeals Fourth Appellate District Division Three. A motion was filed to invoke a judicial notice on Respondent for illegal narcotic drug addiction violating the Department of Food and Drug Administration, Title section 221. So as to show a physical and mental disability; of ACROMEGALY Disease (long mandible and hands) also physiological skin disease (lost of skin layer leaving the skin with a fair complexion): under the California Rule of Court 8.252(b).[App. 1].

(e). How Sought in the California Court of Appeals

fourth Appellate District Division Three. A motion was filed to invoke Judicial Notice for California Uniform Controlled Substance abuse Act section 11218. So as to show a physical and mental disability of ACROMEGAMLY Disease (long mandible and hands) also physiological skin disease (lost of skin layer leaving the skin with a fair complexion, under California Rule of Court 8.252(b). [App. 1].

(f). Opinion of California Court of Appeals; is judgment for Vexatious Litigant Affirmed.

(g). Assignment of Error in the California court of Appeals Fourth Appellate District Division Three. Petitioner was denied his United States Constitutional rights under the Fourteenth Amendment section 1 Due process of law and equal protection. And the omission of law and fact under California Rule of Court 8.252(b) and drug law with

respect to the Disability Act of 1990 and Its' Amendment where Respondent is a recovering drug addict with currently usage. After the decision Justices were identified as not be qualified for their position they held in The California court of Appeals because of their currently use of illegal and prescription narcotic drugs showing visual effects of ACROMEGALY (long mandible and hands) where the omission of fact involved a number one filing fee payment of $320.00 (three hundred and twenty dollars) to consider a Complaint for damage under the California vehicle code and a number two filing fee payment of $320.00 (three hundred and twenty dollars) to consider a Second Amended Complaint for damage under Breach of Contract, Civil code section 3300 and its related motions for character and indictment information to identify Respondent's physical and mental disability: And a misstatement

of material facts and issues by the Justices: involving and stating Appellant alleged Respondent rebuilt his engine without his permission"; this is a misstatement of material facts and issues because Respondent's allegation is that he rebuilt the car's V-12 engine: Appellant alleges that there was no mechanical work performed on the Car's V-12 engine; because when test driven, oil leaked from the oil filter head housing; the car's radiator ran hot; the car's electric radiator fan did not work, the air conditioner did not work; the car needed a tune up; the "RPM" indicator did not work, the power steering hose needed to be replaced because it lacked insulation. These mitigating measure cannot be ignored as set forth by the Department of Consumer Affairs; in the violations of Business and Professions code, div. 3, CHP.20.3, Article 3 section et.[APP.40]

(h). Also California Court of Appeals Fourth

Appellate District Division Three: Justices erred when making the one sided statement that a declaration by handwriting expert filed in support of Respondent's motion for summary judgment, that a document authorizing the work, states it contains Plaintiff's signature. Plaintiff did not designate an expert to counter this opinion. The court Justices are naïve about handwriting expert witness; they have received a handle of hired gun and associates a handle of scattered gun; while both participate in an illegal and prescription narcotic drug environment characterized as being of a bipolar disorder and a type of schizophrenic and physiological skin disease from using illegal and prescription narcotic drugs, having abandon their credibility under California drug law and California Government code section 12926 and American Disability Act of 1990 and Its' Amendment. They are not tested by any state board

in these United States and are licensed as a profession by state in these United States of America.

(ii). If review of a judgment from the United States court of Appeals is sought, basis for federal jurisdiction in the Court of first instance.
(Does Not Apply)

(h). A DIRECT AND CONCISE ARUMENT AMPLIFYING THE REASONS RELIED ON FOR ALLOWANCE OF THE WRIT. RULE 10.

The United States supreme court requires a direct and concise argument amplifying the reason relied in for allowance of the writ. It must be emphasized that the purpose of this section is to persuade the U.S. Supreme court that the particular case merit its attention and time. A petition for writ of certiorari will be granted for compelling reasons; not consist of erroneous factual finding or the misapplication of a

properly stated rule of law. U.S. Supreme court Rule 10. The fact that the court below was erroneous in it's conclusion or reasoning or demonstrated a lack of legal scholarship or is little relevance. The former almost certainly is an insufficient reason for granting certiorari and mention of the latter could possible antagonize the court. The Supreme court views itself as a Court of last resort than as a lawmaking body. Three general factors are often viewed as having the greatest impact on the court's decision to grant certiorari.

First: The court evaluates the importance of the question, the depth of breath of impact that the resolution of the posed question may have. Counsel should identify for the court an issue of great national importance and explain its significance to other litigants.

Answer: The questions presented is of a great importance enough to assure writ of certiorari on the California Court of Appeals Fourth Appellate District Division Three. The decision of the Courts denying motion compelling urinalysis and physician and psychotherapist to communicate record of impairment with respect to illegal narcotic drug use to identify a recovering drug addict sole proprietor automotive mechanic's current substance abuse and other physical and mental disabilities from using illegal and prescription narcotic drugs under the American Disability Act of 1990 and its' Amendment. It is also of great importance Because it involves public law that ignores illegal and prescription narcotic drug mitigating measures of law so that a person can be qualified for disability under the American Disability Act of 1990 and Its' Amendment. The questions presented helps preclude

job acceptance by recovering drug addict automotive mechanics that are strenuous and that will cause a relapse of illegal and prescription narcotic drug use and abuse; while the job is being compared to high school extracurricular activities. It is important that the same illegal and prescription narcotic drugs mitigating measures that were ignored to qualify the sole proprietor automotive mechanic for the disability under American Disability Act of 1990 and its' Amendments are the same ones to used to disqualify a sole proprietor from accepting strenuous mechanical jobs like removing an engine and replace it because it cause a great relapse of illegal drug use

Impact of Resolution of posed question may have. The extent of the impact effects the recovering drug addicts – sole proprietors automotive mechanic with a disability under the American Disability Act of 1990 and its Amendment that offer a repair of

removing the engine and replacing it after rebuilding the engine is a sham. Because to achieve this repair the energy level of the sole proprietor has to be amplified more so than for a preventive maintenance of a automobiles, causing the recovering drug addict sole proprietor automotive mechanic to use illegal narcotic drug again, The achievement of rebuilding a car's engine is very difficult and is now associated and compared to athlete participating in high school extracurricular activities of sports, because the sole proprietor automotive mechanic has to amplify his energy level to rebuilt the car's engine with substance abuse and illegal narcotics; he is disqualified from performing the duties of removing the engine from the car and rebuilding it, and he is not protected under the American Disability Act of 1990 and its Amendment. The recovering drug addict sole proprietor risk not being protected under

(ADA) and will create a automotive repair for replacing or rebuilding the engine that is a sham. Corrective Action: Provide that any Sole proprietor that undergone treatment for controlled substance abuse and addiction to illegal narcotic drugs be permanently disqualified from removing the car's engine to replace it or rebuild it. Because this is where the quadratic automotive repair sham is perpetrated. Posing a direct threat to the safety of the consumer. 42 USCS section 12113(b) Direct threat Provision for the Safety of the consumer.

Second: The court determines whether there is a genuine conflict with other states or federal courts. If possible such a conflict should be argued together with the contention that an important question of law is at issue.

Argument: The California State Court of Appeals has decided an important federal question in a way

that conflict with relevant decisions of the courts: Specifically Court of Appeals in the state of California Fourth Appellate District, Division three in Santa Ana California; ignored discovery motions that demanded character and indictment information so as to identify Respondent's physical and mental disability under American disability Act of 1990 and Its' Amendment; stating that the motion were irrelevant and not allowed because the physical and mental condition of Respondent and his Attorney is not of concern in his case: thus implying that a recovering drug addict showing currently use of illegal narcotic drug cocaine; is a qualified automotive mechanic while holding a broad range of mechanical jobs including removing and replacing the engine of a car and rebuilding it; an job achievement that requires the sole proprietor to amplify his energy level, this when the relapse rate

goes up; a strenuous job that is compared to high school extracurricular activities.

Argument Continue: This raise a very important question of law specifically Public law requiring Employers and the like to ignore illegal and prescription narcotic drug abuse and addiction mitigating measures so that a person can be qualified for physical and mental disability under the American Disability Act of 1990 and its Amendment: the conflict is whether these mitigating measure as held by California Court of Appeals constitutes the qualifications of a recovering drug addict who is the sole proprietor automotive mechanic. Where strenuous work such as rebuilding and removing a car's engine causes a relapse of illegal and prescription narcotic drug use and abuse. cases show the conflict between the courts: (1) United States Court of Appeals, Fifth Circuit; No.98-

11356; (2) United States Court of Appeals, Fifth Circuit; No. 98-50063: (3) United States court of Appeals, Second Circuit; No. 96-9039: (4). United State District Court E.D. Kentucky, At Convington; No. Civ. A. 98-7.

No. 98-11356

UNITED STATES COURT OF APPELS, FIFTH CIRCUIT

EQUAL EMPLOYMENT OPPORTUNITY COMMISION.

PLAINTIFF/APPELLANT

Vs.

EXXON CORPORATION

DEFENDANT/APPELLEE

Equal Employment Opportunity Commission (EEOC) brought action under American Disability Act (ADA) challenging employer's policy of

permanently removing employees who had undergone treatment for substance abuse from certain safety sensitive little supervised positions. The United States District Court for the Northern District of Texas, barefoot Sanders, J entered partial summary judgment for (EEOC), holding that the only defense available to employer's was to prove that employees subject to policy posed "Direct Threat". Employer appealed. Higginbotham, circuit judge, held that, where employer has developed standard applicable to all employees of a class, employer is not required to proceed under "Direct Threat" provision, but rather may defend standard as business necessity.

REVERSED AND REMANDED.

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No. 98-50063

UNITED STATES COURT OF APPEALS, FIFTH CIRCUIT

MAY 24, 1999

TOM ZENOR,

PLAINTIFF/ APPELLANT

Vs.

EL PASO HEALTHCARE SYSTEM, LIMITED, DOING BUSINESS AS COLUMBIA MEDICAL CENTER-EAST; COLUMBIA MEDICAL CENTER-EAST,

DEFENDANT/ APPELLEE

Pharmacist who was terminated for addiction to cocaine brought suit against employer, asserting violation of the American with Disability Act (ADA), and state law claims of breach of contract and

promissory estoppels. The United States District court for the western district of Texas, David Briones, J, granted judgment as a matter of law in favor of employer, and Plaintiff appealed. The court of Appeal Garwood, circuit judge, held that: (1). Plaintiff was currently engaging in illegal use of drugs at the date he was notified he would be terminated, and thus he was qualified individual within the means of the (ADA); (2) Fact that employee "self-report" his cocaine addiction and voluntarily entered into a rehabilitation program before he was terminated did not provision for drug users; (3) under Texas law; language in the employer's "Drug-Free/Alcohol-Free workplace policy" did not create a contractual obligation to return drug user to work after completion of rehabilitation program; and (4) Promissory estoppels was not applicable.

AFFIRMED:

No. 1224, DOCKET 96 - 9039

UNITED STATES COURT OF APPEALS, SECOND CIRCUIT

ARUED APRIL 30, 1997

DECIDED OCT. 8, 1997

DAN BUCKLEY,

PLAINTIFF/APPELLANT

Vs.

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.,

DEFENDANT/APPELLEE

Employee's status of being a recovering drug addict was a disability covered under Americans with Disabilities Act (ADA), because employee had record of impairment that substantially limited one or more major life's activities. American with Disabilities Act of 1990, section (2)(2), 3(2)(A,B), 104(b), 42USCA

section 12101(2), 12102(20(A,B), 12114(b).

No. CIV. A. 98 - 7

UNITED STATES DISTRICT COURT E.D.

KENTUCKY, AT COVINGTON

AUG. 8, 2000

MX GROUP, INC., ET. AL.,

PLAINTIFF

Vs.

CITY OF COVINGTON, ET. AL.,

DEFENDANT

Promoter of proposed methadone clinic sued municipality, challenging zoning ordinance amendment having effect of excluding all methadone clinics from the cit limits. The District Court Bertelsman, J, held that: (1) recovering drug addicts were persons with disabilities covered by (ADA); (2)

promoter had standing to represent addicts; (3) ordinance violated ADA on it.

THIRD: The court considers whether the lower courts' decision conflict with relevant decision of the United States Supreme Court itself. Specifically California Court of Appeals Fourth Appellate District Division Three;

No. 01-332

IN THE UNITED STATES SUPREME COURT

BOARD OF EDUCATION OF INDEPENDENT SCHOOL DISTRICT NO. 92 OF POTTAWATOMIE COUNTY, ET. AL.,

PETITIONERS,

Vs.

LINSAY EARLS ET. AL.

APPELLEE

27-JUNE-2002

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ARGUED MARCH 19, 2002

DECISION: public School district's subjection of all students participating in District competitive extracurricular activities to urinalysis drug testing held not to violate federal constitution fourth amendment. [536 US-,153 LED 2d 735, 122 S Ct. 2559

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APPENDIX 1

(1i) AN APPENDIX CONTAINING IN THE ORDER INDICATED:

THE OPINION, ORDER, FINDINGS OF FACT, AND CONCLUSIONS OF THE LAW WHETHER WRITTEN OR ORALLY GIVEN AND TRANSCRIBED, ENTERED IN CONJUNCTION WITH THE JUDGMENT SOUGHT TO BE REVIEWED.

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(1). OPINION---IN THE COUR OF APPEALS OF THE STATE OF CALIFORNIA FOUTH APPELATE DISTRICT DIVISION THREE.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS IN THE COURT OF APPEALS OF THE STATE OF CALIFORNIA FOURTH APPELLATE DISTRICT DIVISION THREE.

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APPENDIX 2

JAMES HENRY DENEAL	APPEAL CASE No.
PLAINTIFF/APPELLANT	G040688
Vs.	SUPEROIR Ct. No.
RONNY SHAVER	07CC05611
DEFENDANT/RESP.	OPINION

Appeal From An Order Of The Superior Court Count of Orange; Peter J. Polos, Judge. Numerous motion Denied. Judgment Affirmed. James Henry DENEAL, in Pro Per for Plaintiff/Appellant. Law Offices of Thomas R. Nigro and For Defendant/Respondent.

Plaintiff James Henry DENEAL filed suit against defendant Ronny Shaver arising from Defendant's repair of Plaintiff's car after Defendant would not return the car to him without payment services. In the complaint plaintiff alleged that defendant used prescription and illegal drugs . In addition to damages, he pray for defendant to be placed in drug

treatment and jail.

After a demurrer was sustained, plaintiff filed a first amended complaint containing the same allegations. In the ruling granting defendant's motion to strike, the court ordered that when plaintiff filed a second amended complaint he had to follow certain specified guidelines, including deleting any reference to the mental condition of or drug use by defendant or his lawyer.

He also filed a motion objecting to the Court's orders that he delete the specified provisions from the amended complaint and setting out the statements that defendant and his counsel were drug addicts and had mental disorders. The court denied the motion and ordered the provisions of the prior order stricken from the second amended complaint.

When he filed the original complaint plaintiff also

filed 20 motion, most of which sought to have defendant and his lawyer take drug tests, undergo mental health of substance abuse treatment, and have medical and mental professionals reveal diagnosis of defendant. Plaintiff did not respond to defendant's letter asking that he take them off calendar because they had no merit. All of the motions were denied.

When Plaintiff filed his first amended complaint he also filed 14 motions similar to those in the first batch. They also include a motion to exclude evidence and compelling undesignated expert to testify. After Plaintiff refused to take them off calendar as unmeritorious, the court denied them and awarded $1,000.00 in sanctions against Plaintiff. Plaintiff advised defendant's lawyer he would refile the motions.

Plaintiff filed another motion to compel

defendant's handwriting expert to be drug tested, which the court denied: it also awarded $500.00, in sanctions. He also filed a demurrer to both defendant's answer and cross complaint, and motion to strike parts of his answer. All were denied. Although defendant filed a motion for summary judgment, the record does not reveal there was ever a ruling on it.

Based on the approximately 35 motions, the court issued an order to show cause as to why Plaintiff should not be deemed a Vexatious Litigant. After hearing it made such a finding and ordered Plaintiff post $25,000,00 bond pursuant to defendant's request when plaintiff failed to post the bond on time, the court dismissed the complaint in response to defendant's motion.

A Vexatious Litigant is a person who, [i]n any litigation while acting propria persona, repeatedly

files unmeritorious motions pleading, or other papers, conduct unnecessary discovery, or engages in other tactics that are frivolous against the moving defendant, the court shall order" that Plaintiff furnish a bond. (Code civ. Proc., sec. 391.4) An order dismissing an action for failing to post a bond is appealable. (Childs Vs. Paine Webb incorporated (1994) 29 Cal.App.4th 982,985, fn.1).

Plaintiff Brief is unclear and difficult to understand. The vague headings in the statement of the case part of the brief and two headings in the argument portion seem to suggest he is appealing from the judgment based on the Vexatious Litigant finding. This is bolstered by a sentence or two including in the argument that other otherwise has nothing to do with that issue. On that basis and giving Plaintiff the benefit of the doubt we will treat this as an appeal on that ground.

However, Plaintiff has failed to meet requirement that he support his claim with reasoned legal argument and citations to authority. (Benach V. County of Los Angeles (2007) 149 Cal. App.4th 836.852; see also Cal. Rules of court 8.204(a)(1)(B). the bulk of this argument centers around the substantive merits of the case, i. e., the dispute over a car repairs. This was never litigated in trial court and is not properly before us. (In re B.D. 2008 159 Cal.App.4th 1213,1239) Even in the couple of sections with headings referring to Vexatious Litigant, he does not argue that point. Thus, we may treat the argument as waived.

We were to consider the appeal on merits the record reveals substantial evidence that the trial court ruling is correct. (Morton Vs Wagner 2007 156 Cal.App.th 963,969) Plaintiff filed approximately 35 motion many of which were refilled even after the

court had denied them. Neither drug testing of nor alleged drug use by defendant or his counsel or his counsel bear on whether defendant performed the proper car repair or whether plaintiff owes him money. The same is true for the other motions plaintiff filed. We are not persuaded by plaintiff's claim that he believed he could refile the motions because he was given leave to a first amended complaint.

Nor has Plaintiff pointed to any evidence in the record showing the likelihood he will prevail in the litigation. In ordering the bond the court found there was no such reasonable probability. Plaintiff alleges defendant rebuilt his engine without his permission. However a declaration of handwriting expert filed in support of defendant motion for summary judgment, that has a document authorizing the work attached, states it contains plaintiff's signature. Plaintiff did

not did not designate an expert to counter this opinion.

The finding that Plaintiff was a Vexatious litigant was in compliance with the statute and the order did not violate due process or equal protection.

Plaintiff filed 12 motions in this court. They are in somewhat paraphrased language: (1) Motion for Mandatory Judicial notice on defendant for illegal drug addiction; (2) motion for mandatory judicial notice on defendant for illegal and prescription narcotic drug addiction. (3) Motion for factual determination of mechanical work performed; (4) motion for factual determination compelling defendant's attorney's physician to communicate diagnosis of treatment of counsel's physical or mental condition; (5) Motion for factual determination f drug addiction by expert witness to conduct a medical examination of defendant's

counsel to verify his addiction to illegal narcotics; (6) Motion to compel defendant's physician to communicate diagnosis of treatment of defendant's physical, mental or emotional condition; (7) Motion to compel defendant's expert witness to take a drug test. (8) Motion to compel an expert witness to conduct a psychiatric examination of defendant's counsel to verify his addiction to illegal narcotics; (9) Motion to compel defendant to participate in a substance abuse program; (10) Motion to compel defendant's psychiatrist to communicate the diagnosis of treatment of his physical, mental or emotional condition; (11) Motion for factual determination of defendant's drug addiction to participate in the Asylum's Saint Elizabeth Hospital's mental health services; (12) Motion for factual determination of defendant's drug addiction by expert witness to conduct a medical examination.

None of the motions are well-taken. The first 11 are completely irrelevant to the action and not allowed. All are summarily denied. These are substantially the same, if not identical to, the motions filed in the trial court that have been denied more than once and thus are more evidence that Plaintiff is Vexatious. Number 12 a request we make factual findings under California rule of court , 8.252(b), is also denied. We take evidence only in the rarest of cases (Tyrone Vs Kelly (1973) 9 Cal. 3d 1, 13) and certainly not as a substitute for factual finding that were not made in the trial court because the case was never tried.

Defendant filed a motion to dismiss the appeal, primarily on the ground plaintiff did not obtain permission from the presiding justice before filing it. After the appeal was filed we sent out an order stating we were considering dismissing the appeal

based on plaintiff's failure to obtain such permission. Plaintiff subsequently filed such a request.

Code of civil procedure section 391.7, subdivision provides that, in addition to other remedies, a court may "enter a prefiling order which prohibits a vexatious litigant from filing any new litigation in the courts of this state in propria persona without first obtaining leave of presiding judge of the court where the litigation is proposed to be filed. Here no such order was issued by trial court. Thus such a request was not necessary to file the appeal. (Holcomb Vs U.S. Bank Nat, Assn (2005) 129 Cal. App. 44th 1494,1500 [where court ordered only posting of bond appellant not required to obtain permission to file appeal]). The motion to dismiss is denied.

The order is affirmed. All motions are denied. Respondent is entitled to cost on appeal.

RYLAARSDAM, Acting P.J.

WE CONCUR:

MOORE, j.

IKOLSA, J.

STATUTE: 42 U.S.C.S. 12113(a)(b); DEFENSES

(a) IN GENERAL (b) QUALIFICATION.

(a). It may be a defense to a charge of discrimination under this Act that an alleged application of qualification standards, test, or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation, as required under this title.

(b). Qualification standards. The term "qualification standard" may include a requirement that an individual shall not pose a direct threat to the health

or safety of other individual in the workplace.

(ii) Any other relevant opinions, orders, finding of fact, and conclusion of law entered in the case by courts or administrative agencies, and if reference thereto is necessary to ascertain the grounds of the judgment, of those in companion cases (each document shall include the caption showing the names of the issuing court or agency, the title and number of the case, and the date of entry.
MOTIONS TO DETERMINE DEFENDANT'S DISABILITIES UNDER AMERICAN DISABILITY ACT OF 1990 AND ITS' AMENDMENT. WHILE VIOLATING CALIFORNIA VEHICLE CODE SECTION 10851, 10852, 10853:

SUPERIOR COURT OF CALIFORNIA COUNTY OF

APP. 15

ORANGE MINUTE ORDER:

7-JUNE-2007

DEPT.: C-26 CENTRAL JUSTICE CENTER

CONVENED AT 1:30 p.m.

JUDGE/COMM.; DENNIS S. CHOATE

CLERK: LORI PICKRELL

BAILIFF: A. WHITWORTH

REPORTER: SHELLY HIL CSR# 2379

COURT TYPE: CIVIL

COURT CATEGORY: AUTO

CASE No. 07CC05611

CASE TITLE: DENEAL Vs. RONNYS' GARAGE

DOC. SEQ. No. EVENT: 605 AND 671:

APPEARENCES:

PRO PER JAMES HENRY DENEAL

DEFENDANT RONNIE'S GARAGE

SPECIAL APPEARANCE BY – THOMAS NIGRO

APP. 15.1

COUNSEL FOR THE DEFENDANT INDICATES A DEMURRER WOULD BE FILED SHORTLY IN THIS CASE. ALL 10 MOTION ARE DENIED FOR INSUFFICIENTSHOWING CASE MANAGEMENT CONFERENCE IS SET FOR 9-18-2007 AT 9:00 a.m. IN DEPT. C26. ENTERED 6-7-2007.

APPENDIX

SUPERIOR COURT OF CALIFORNIA IN THE COUNTY OF ORANGE MINUTE ORDER

12-JULY-2007

DEPT. C26 Central Justice Center Convened 1:30

Judge/Comm. Temp. Judge Elizabeth Olsen

Clerk: Lori Pickrell: Bailiff: R. Greenland

Reporter: Shelley Hill CSR# 2379

Court Type: Civil: Court Category: Auto

Case No. 07CC05611

APP. 16

Case Title: James Henry DENEAL V. Ronnie Garage

Doc. Seq. No. 37: Event: 654 2) Motion To Strike filing party Ronnie Garage. 680 1) Demurrer To Complaint filing Party Ronnie Garage.

Appearances: In Pro Per James Henry DENEAL: Defendant Thomas R. Nigro: Stipulation And Order For Temporary Judge Signed and filed This Date. Demurrer Is Sustained with 20 Days Leave To Amend. Motion To Strike Is Ordered Off Calendar As Moot. Entered: 7-12-2007

MOTIONS TO DETERMINE DEFENDANT'S DISABILITY UNDER AMERICAN DISABILITY ACT OF 1990 AND ITS AMENDMENT; WHILE VIOLATING CIVIL CODE 3300 BREACH OF CONTRACT.

APP. 17

SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE MINUTE ORDER:

30-AUG-2007

Dept. C-26 Central Justice Center Convened 1:30 Judge/Comm. Dennis S. Choate Clerk: Lori Pickrell Bailiff: A. Whitworth: Reporter Shelley Hill CSR #2379 : Court Type: Civil: Court Category: Auto Case No. 07CC05611: Case Title: DENEAL V Ronnies Garage: Doc. Seq. No. Event: 605 And 671. Appearances: In Pro Per James Henry DENEAL: Defendant Att. Thomas R. Nigro: All 14 Motion Are Denied. Plaintiff Provides No Authority For Individual Request. Each Of The 14 Motions Is Denied For Reason Set Forth In The Opposition. Neither Defendant Or His Attorney's Medical Condition Is Relevant To This Case. Court Has Previously Denied Most Of These Motions At The June 7, Hearing. Compensation Sanction Granted In

The Amount Of $1,000.00 Ordered Payable To Defendant And His Attorney From Plaintiff. Sanction Are Ordered Stayed Until Further Order Of This Court Or Any Other Court Of Competent Jurisdiction. Sanction Request under CCP 128.6 Is Denied. This Case Should Go to Mediation/Arbitration By Stipulation. Court Sets This Case For 3 Day Jury Trial On 2-19-08 At 9:00 In Dept. C-26. The Case Management Conference Date Of 9-18-07 In Dept. C-26 Is Ordered Vacated. Counsel for Defendant And Clerk To Give Notice. Entered 8-30-2007.

SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE MINUTE ORDER:

27-SEP. 2007

Dept. C-26 Central Justice Center: Convened 1:30

Judge/Comm.: Temporary Judge Beth Abbott: Clerk:

Lira c. Labrador: Bailiff: A Whitworth; Reporter: Shelley Hill CSR #2379: Court Type: Civil: Court Category: Auto: Case No. 07CC05611: Case Title: DENEAL V. Ronnies Garage: Doc. Seq. No. 136: Event: 654 2) Motion To Strike Filing Party: Shaver, Ronny 683 1)Demurrer To 1st Amended Complaint Filing Party: Shaver, Ronny.

Appearances: In Pro Per James Henry DENEAL: Defendant Thomas R. Nigro: Stipulation And Order For Temporary Judge Signed And Filed this Date. Demurrer Is Overruled With 20 Days Leave To File A Second Amended Complaint. Plaintiff To Make Verification As A Separate Document And Attach That Document To The Back Of The Second Amended Complaint Pursuant To C.C.P. 446 When Filing With The Court. Motion To Strike Is Granted As The 15th, 23rd, 26th, 27th, Paragraph Of The Complaint. Motion To Strike Is Denied As To The

22nd And 29th , Paragraphs Of The Complaint. Plaintiff To Begin Numbering With Paragraph #1 And His Breach Of Contract Cause Of Action Shall Be Designated As The First Cause Of Action. Defendant To Give Notice. Entered :9-27-2007.

SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE MINUTE ORDER:

9-OCT.-2007

Dept. C-26 Central Justice Center: Convened 9:00 Judge/Comm.: Temporary Judge Dennis S. Choate Clerk: Lori Pickrell: Bailiff: A Whitworth: Reporter: none: And The Following Proceedings Were Had: Case No. 07CC05611; DENEAL V. Ronny's Garage Re: Notice Of Plaintiff's Objection to Court Riling Of 9-27-2007: No Appearances. The court Received A Noticed Motion By Plaintiff Objecting To Court's

Ruling Of 9-27-2007. The Court Set This Matter For Hearing On 11-15-2007 At 1:30 In Dept. C-26. Plaintiff To Submit A Check In The Amount Of $40.00 Made Payable To The Clerk Of The Court To Dept. C-26 forthwith To Place This Mater On Calendar. Clerk To Give Notice Of Hearing To All Parties. Entered: 10-9-2007.

SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE MINUTE ORDER:

15-NOV.-2007

Dept.: Central Justice Center: Convened 1:30 Judge/Comm.: Temporary Judge Beth Abbott Clerk : Lori Pickrell: Bailiff: A. Whitworth Reporter: Shelley Hill CSR # 2379: Court Type: Civil: Court Category: Auto: Case No. 07CC05611: Case Title: DENEAL V. Ronnie's Garage: Doc. Seq. No. 150:

Event: 671 Motion Objecting To Courts Ruling Of 9-27-2007. Motion For Reconsideration: Filing Party: DENEAL, James: Appearances: In Pro Per James Henry DENEAL: Defendant's Att. Thomas R. Nigro Temporary Judge Beth Abbott Presiding To Hear This Motion Due to The Fact She Ruled At The Previous Hearing Of 9-27-2007 Is Ruled Moot. Plaintiff Amended Complaint By Filing Second Amended Complaint With The Court On 11-11-2007. Court Orders The Following Lines Stricken From The Second Amended Complaint: Page 1, line 14 And Continuing Through Page 2, Line 6. All Other Aspects Of The Second Amended complaint To Remain As Is. Counsel For defendant To Filed A Notice Of Ruling And Prepare An Order For The Courts Signature. Entered 11-15-2007.

APP. 23

SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE MINUTE ORDER;

17-JAN.2008

Dept. C-26: Central Justice Center: Convened 1:30 Judicial Officer Presiding: Judge Dennis S. Choate Clerk: Lori Pickrell: Bailiff/Court Attendant: A. Whitworth: Reporter: Tisha Kotick: Case Init. Date: 05/04/2007: Case No. 07CC05611: Case Title: DENEAL V Ronnie's Garage: Case Category: Civil Unlimited: Case Type PI/PD/WD-AUTO: Event Type: Motion For summary Judgment And /Or Adjudication: Moving Party: James Henry DENEAL. Appearances: In Pro Per James Henry DENEAL: Defendant Attorney Thomas R. Nigro.

Matters On Calendar:

1). Motion By Plaintiff Compelling Jack black to Take A Narcotic Drug Test.

2). Motion By Defendant For Summary Judgment

Adjudication Of Issues.

The Court Having Full Considered The arguments Of All Parties, both written And Oral, As Well As The Evidence Presented, Now Rules As follows:

Motion #1 Compelling Jack Black To Take A Drug Test Is Denied Pursuant To C.C.P. 1008. There Is No Legal Basis For This Motion. Court Orders Sanction Against Plaintiff, James Henry DENEAL in The Sum Of $500.00 Payable to Defendant Ronnie's Garage By 02/18/2008.

The Court Having Fully Considered The Arguments Of All Parties , Both Written And Oral, As Well As The Evidence Presented, Now Rules As Follows:

Motion #2 for summary Judgment by Defendant Is Denied. Did DENEAL Authorized The Work On His Vehicle? The Parties Disagree, which Mandates A Trial.

1). Court Hereby Sets This Case For An Order To

Show Cause RE: Why James Henry DENEAL Should Not Be Declared A Vexatious Litigant For February 19, 2008 At 19, 2008 At 9:00. In Dept. C-26.

Please Take Notice On February 19, 2008 At 9:00. In Dept. C-27, Plaintiff, James Henry DENEAL, Shall Show Cause Why He Should Not Be Declared A Vexatious Litigant Pursuant To Civil Code Of Procedures Section 391(B)(3) For Repeatedly filing Unmeritorious Motions, Pleadings Or Other Papers, Conducting Unnecessary discovery, Or Engaging In Other Tactics That Are Frivolous Or Solely Intended To Cause Unnecessary Delay. If James Henry DENEAL Is Declared A Vexatious Litigant, This Court May Enter A Prefiling Order Pursuant To Code Of Civil Procedure Section 391.7. On Or Before January 29, 2008, Defendant Ronny Shaver DBA Ronny's Garage Shall Submit A Declaration Setting

Forth The Grounds For Plaintiff to be Declared A Vexatious Litigant And Any Points And Authorities In Support, On Or Before February 6, 2008, James Henry DENEAL May Submit Any Points And Authorities And Declaration In Opposition.
The Order To Show Cause-Other Is Scheduled For 02/19/2008 At 9:00. In Department C-26. Order To Show Cause RE: Why Plaintiff Should Not Be Designated A Vexatious Litigant Pursuant To C.C.P. 391.(B)(3). The Court Finds/Orders: Court Orders Plaintiff James Henry DENEAL To Physically Appear In Dept. C-27 On 2-19-2008 At 9:00. Oral Motion By Plaintiff To Take Deposition Is Denied.

SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE HARBOR JUSTICE CENTER-NEWPORT BEACH MINUTE ORDER: 29 JAN. 08

Dept. H-10 Harbor Justice Center: Convened 9:00

Judicial Officer Presiding Judge Peter Polos

Clerk: Cheryl Henderson: Case Intit. 05/04/2007:

Case No. 07CC05611: Case Title: DENEAL V

Ronnies' Garage.: Case Category: Civil Unlimited:

Case Type: PI/PD/ED-Auto: Event Type: EX Parte:

Moving Party: Ronny Shaver: Casusal Document: Ex

Parte Application –Other.

Appearances: This Case Heard In Central Justice

Center C-27. John C. Mulvana Special Appearing

For Defendant. Ex Parte Application For An Order

Shortening time for Hearing On A Motion Requiring

Plaintiff To furnish Security Pursuant To C.C.P.

391.3 Is Requested By Defendant/Cross-

Complainant.

THE MOTION IS GRANTED.

The Motion – Other Is Scheduled For)2/19/2008 At

9:00. In Department C-27.

Court Orders Plaintiff To Give Notice.

SUPERIOR COURT OF CALIFORNIA IN COUNTY OF ORANGE CENTRAL JUSTICE CENTER

MINUTE ORDER

14-FEBRUARY-2008

Dept. C -27: Convened At 1:30 p.m.

Judicial Officer Presiding: Judge Peter Polos

Clerk: Cheryl Henderson: Bailiff/Court Attendant: A. Whitworth: Reporter: Lisa Suzanne: Case Int. 05/04/2007: Case No. 07CC05611: Case Title: DENEAL V. Ronnie's Garage; Case Category: Civil Unlimited; Case Type: PI/PD/WD – Auto: Event: Demurrer To Answer; Causal Document: Amended Compliant; Answer To Amended Complaint; Case Management Statement; Complaint; Cross-Complaint; Declaration –Other; Declaration Is

Supported; Demurrer To Answer.

Appearances: In Pro Per James Henry DENEAL;

Defendant Attorney Thomas R. Nigro

The court Tentative ruling Posted on The Internet

Becomes Final as follows:

Motion To Objection By Answer To Cross Complaint

Is Deemed To Be The Answer To Cross – Complaint

Pursuant To C.C.P. 430.30: Motion Denied.

Special Demurrer To Defendant's verified Answer To

Plaintiff's Second Amended Complaint Is Denied. It

Was filed More Than 10 Days After The Service Of

The Answer Challenged. C.C.P. 430.40(B).

Motion To Strike Portions Of Defendant Answer To

Second Amended Complaint Is Denied. It Was Filed

More than 10 Days After Service Of the Answer

Challenged. C.C.P. 430.40(B).

Request For Sanctions Pursuant To C.C.P. 128.5

And /Or C.C.P. 128.6 Denied. C.C.P. 128.5 Does Not

Apply To This Case Because It Was Commenced After 1994; C.C. P. 128.5 Is Incorporative By Its' Own Terms.

Jury Trial Continued To 3/03/2008 At 9:00. In this Department.

Court Order's Defendant To Give Notice.

SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE CENTRAL JUSTICE CENTER MINUTE ORDER:

3-MARCH -2008

Dept. C-27: Convened At 9:00; Judicial Officer Presiding: Judge Peter Polos: Clerk: Cheryl Henderson; Bailiff: Evelyn Richardson; Reporter: Lisa Suzanne; Case Int. 05/04/2007; Case No. 07CC05611; Case Title: DENEAL Vs Ronnie's Garage; Case: Category: Civil Unlimited; Case Type:

PI/PD/WD-Auto; Event Type: Jury Trial: Motion-Other; Casual Document: Affidavit-Other; Amended complaint: Answer To Amended Complaint; Case Management Statement: Complaint; Cross-Complaint Declaration In Support:

Appearances: In Pro Per James Henry DENEAL;

Defendant Attorney Thomas R. Nigro

The Motion That Plaintiff Be Declared A Vexatious Litigant And for An Order Requiring That Plaintiff Furnish Security Is Granted.

Plaintiff To Post $25,000.00 Within 30 Days Or By April 3, 2008. The formal Order Was Signed This Date. Parties Waive Notice.

SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE CENTRAL JUSTICE CENTER MINUTE:

15-MAY-2008

Dept.: C-27: Convened At 1:30; Judicial Officers Presiding: Judge Peter Polos; Clerk: Cheryl Henderson; Bailiff/Attendant: Evelyn Richardson; Reporter: Lisa Suzanne Rouly- 9524; Case Int. Date 05/04/2007; Case No. 07CC05611; Case Title: DENEAL Vs. Ronnie's Garage ; Case Category: Civil –Unlimited; Case Type: PI/PD/WD-Auto; Event: Motion To Dismiss; Moving Party: Ronny Shavers; Casual Document And Date Filed: Motion To Dismiss, 6/07/2007.

Appearances: In Pro Per James Henry DENEAL; Defendant Attorney Thomas R. Nigro.

Tentative Ruling Post On Internet. The Court Affirms Tentative Ruling As Follows:

Motion To Dismiss Is Granted.

Trial On Cross-Complaint Set For Monday 05/19/2008 At 9:00. In Department C-27 Is To Remain. Court Orders Defendant To Give Notice.

SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF ORANGE CENTRAL JUSTICE CENTER:

19-MAY-2008

DENEAL	CASE No. 07CC05611
PLAINTIFF	HON. RANDELL L. WILKINSON
Vs.	DEPT.25
RONNIE'S GARAGE	
DEFENDANT	

Plaintiff James Henry DENEAL Present In Pro Per. Defendant And Cross-Complainant Present By Thomas R. Nigro. The Defendant's Motion To Dismiss The Cross Complaint Without Prejudice Is Granted.

It Is So Ordered:

Date: 05/19/2008; /s/ Randell L. Wilkinson

Judge Of The Superior Court.

SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE CENTRAL JUSTICE CENTER:

20-MAY-2008

JAMES HENRY DENEAL	CASE No.07CC05611
PLAINTIFF	ASSIGNED FOR ALL
Vs.	PURPOSE TO JUDGE
	PETER POLOS DEPT
RONNIE'S GARAGE	C-27
DEFENDANT	DATE: MAY 20, 2008
	TIME: 1:30 p.m.
	DEPT. C-27
	ORDER GRANTING
	DEFENDANT MOTION

APP. 35

TO DISMISS PLAINTIFF COMPLAINT FOR FAILING FURNISH SECURITY PURSUANT TO C.C.P. SECTION 391.4

To All Interested Parties And To Their Attorneys Of Record:

The Above – Entitled Cause Came On regularly for Hearing On Defendant's Motion to Dismiss Plaintiff's Complaint for failing to Furnish security Pursuant to C.C.P. Sec. 391.4, On may 15, 2008 At 1:30. In Department C -27 Of The Above named Court, The Honorable Peter Polos Presiding. Upon Consideration Of The Papers submitted And Arguments Of Counsel: Dated: 05/20/2008 Peter Polos: Judge Of The Superior Court.

(iii). Any Other Order On rehearing, Including the Caption Showing The Name Of the Issuing And Number Of the Case, And The Date Of Entry.

COURT OF APPEALS FOURTH APPELLATE DISTRICT DIVISION THREE IN SANTA ANA CALIFORNIA

JAMES HENRY DENEAL	CASE No. G040688
PLAINTIFF/APPELLANT	JUSTICES;
Vs.	RYLAARDAM, IKOLA
RONNY SHAVER	MOORE
DEFENDANT/RESP.	REHEARING BRIEF

/s/ 1 -JUNE-2008

REHEARING DENIED. RYLAARSDAM, CONCUR: MOORE, IKOLA.

APP. 37

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

JAMES HENRY DENEAL	S. CT. No. S173711
PLAINTIFF/APPELLANT	AP. CT. No. GO40688
Vs	SUP. CT No.07CC05611
RONNY SHAVER	REVIEW BRIEF
DEFENDANT/RESP.	

REVIEW DENIED JULY-8, 2009

SIGNATURE BY: /s/ GEORGE.

(iv). The Judgment Sought To Be Reviewed If The Date Of The Entry Is Different from the Date Of The Opinion or Order required In the Sub-subparagraph;

____DOES NOT APPLY____

/

(v.). Material Required By Subparagraph 1(g)(i); And Does Not Apply:

(vi.). Any Other Material the Petitioner Believe Essential To Understand The Petition.

COSTAL COMMUNITY	
2701 S. BRISTOL ST.	SMITHKLINE BEECHAM
SANTA ANA, CA.	CLINICAL
92704	LABORATORIES

Name (James Henry DENEAL: Patient No. 5788757

Report Status: Final: Lab# 3161006 Acc.# 428548F

Toxicology Drug Screen: Microfilm # 061109316243

None Of The Tested Were Detected In Urine:

Samples Have Been Tested For The Following Drugs And Are "None Detected" Unless Indicated Above:

Amphetamine D-Amphetamines; Methamphetamine

Analgesic Acetaminophen; Salicylate: antidepressanat(Amtriptyline; Desipramine; Doxepin; Imipramine;Nortriplyline): Barbiturates (Amobarbital; Butabarbital; Butalbital; Pentobarbital; Phenobarbital; Secobarbital): Benzodiazepines (Metabolite; Chlordiazepoxipe; Diazepam; Flurazepam): Nordiazepam; Oxazepam): Miscellaneous (Cocaine/Metabolite; Dextromethorphan; Diphenhydramine; Ephedrine; Lidocaine; Phencyclidine (PCP) Phenylpropanolamine; Phenytoin; Quinidine/Quinidine): Volatiles (Acetone; Ethanol; Isopropanol; Methanol): Narcotics Codeine; Methadone; Hydromophone; Meperidine; Morphine; Pentazocine; Propoxyphene): Phenothiazines (Metabolite; Chorpromazine; Thioridazine): Sedative/Hypnotics (Carisoprodol; Ethchlorvynol; Glutethimide; Meprobamate; Methaqualone;

Methocarbamol; Methyprylon)

Department Of Consumer Affairs: Placentia Field Office; 701 Kimberley Avenue, Suite 120 Plancentia, CA. 92870:

INVESTIGATIVE REPORT:

Date: April 2, 2007

Complaint No.: Fl2007002640

Subject: Ronny's Garage
1111 West First Street
Santa An CA. 92703

ARD No. AD 239125

Owner/Pres.: Ronny Shaver

Complainant: James Henry DENEAL

Vehicle: 1985 Jaguar XJS V-12

Summary: The Complainant alleges in his DCA/BAR complaint from and in statements made, that the

subject facility rebuild his engine without his authorization he only paid $3,000.00 for an oil filter head housing. He wishes the facility accept the $3,000.00 he paid to replace his engine oil filter head housing and that he drop the $6,700 engine cost. The subject facility owner claimed that the complaint knew he had an engine knock he authorized be inspected but then authorized that he rebuild the engine and gave him $3,000.00 deposit. He just did not record the additional authorization on his work orders and invoices he knew to be an automotive repair act violation. He did not provide the customer an estimate to tear down, inspect, report and reassemble the engine. He failed to show his ADR and Cal-EPA number on his invoices. He failed to provide the customer with a written estimate for hazardous waste disposed of. The owner agreed to reduce the due bill of $6,700.00 to only 5,000.00 that

the complaint declined and said he would go to small claims court over. This investigation could not prove nor disprove allegation.

DISPOSITION: On March 22, 2007, at 0912 hrs., the complainant Mr. James DENEAL called me and we discussed his allegation and wishes, and I explained the jurisdiction to him. He said that he went to subject facility and spoke to the owner who also is the technician about replacing his oil filter head. This was for $3,000.00 he did not say if he thought that was too high a price. He said that the engine had to removed to do that so he thought that was the cost for the job. I asked why he wished that done he said was because the filter was hard to see when doing his oil change. He wished it moved so it does not get hot anymore and it is easy seen. Mr. DENEAL said that he authorized that the engine be removed to accomplish that. He said that when he

went to get the car he drove it and that when the owner said that he had rebuild his engine, the owner Ronny Shaver said he had to $6,700.00 for what he did not wish to pay. The owner told him he did not install the oil filter head he promised he would. I saw he has a Bauer Jaguar part receipt for an oil filter and gasket. That cost $249.20 he said was the oil filter head he wished installed on his engine. Mr. DENEAL said that the owner just overhauled his engine he said is, "Just Morbid". I asked what he meant when he said that and he again said, it is just morbid that did the engine overhaul. He has morbid apathy with difficulty to reason. He has no sense of reason. Mr. DENEAL told me that he paid $3,000.00 to the owner before the repair work and the owner now wants $6,700.00 more to release his vehicle. I explained that I would go ask the owner for proof of additional authorization and that he did overhaul

his engine. I said that if the owner does not make an acceptable resolution offer to him, then has the right to go to small claims court. I will call him after I contact the owner. The complainant did not provide any work orders or invoice copies. On March 22, 2007, I visited the subject facility and I spoke to the owner Ronny Shaver, I explained the complainant's allegations and wishes. He stated the complainant in for an oil leak diagnosis and oil filter housing replacement. He found however that he had a leaking valve cover the complainant authorized he replace for $850.00. He also told the complainant that he had a knocking he should let him repair afterwards. He gave Mr. DENEAL an estimate of $8,260.00 over the telephone and he came and spoke with him telling him to go ahead and fix the engine noise. Mr. DENEAL signed the work order for the addition authorization that he showed me a copy of

invoice #1505 dated 1/03/07. Mr. Shaver said that for Mr. DENEAL to say that he did not give him original authorization and additional authorization for the valve cover gasket and engine rebuild is not true. If he is saying that, then he set me up. When DENEAL came after talking on the telephone to him, he paid him $816.00 he applied toward the engine overhaul he authorized repair. When on the phone with Mr. DENEAL he told him that, Before he could start the engine rebuild he needed a deposit from him. Mr. DENEAL then came and him $3,000.00 he applied toward the 82,260.00 that was reduced by $816.65 he paid for the left side valve cover gasket and oil filter housing. That was on 1/5/07 invoice #1507. Mr. Shaver said that he then began the engine repair and found that two rods were damaged and the crankshaft was so worn out that he could not bearing for it. He said he saved the

BEST AVAILABLE COPY

old crankshaft and rods I can look at them if I wish. I then inspected the parts he showed me old engine beating, rings engine mounts, an old crankshaft he said he removed from the customer vehicle. I took several photographs of the parts. As we reviewed the two invoices I saw all the copy, were still attached including the pink one he said he give customer after they sign it. Mr. Shaver admitted he did not record the additional authorization on the work orders and invoices and did not give him copies. He said when Mr. DENEAL went for a drive he returned and authorized the additional engine overhaul. He then signed the work order. He did not give the customer a copy of the signed documents. I saw that he did not provide the customer with an estimate to tear down, inspect, report, and reassemble the engine. He did not record the additional telephone authorization on the work orders and invoices #1505. He ddid not put

his ARD and CAL-EPA numbers on the invoices. I also saw he did not provide the customer with estimate for the hazardous waste disposal. Or disclose the type waste disposed of. I advised him to make corrections he said he would. I asked if he would reduce the labor to release the vehicle. He agreed to reduce the due bill by $1,000.00($1,700) and Mr. DENEAL could come and get his car. He affirmed that $5,000.00. Mr. DENEAL can come take his car. I said that I would call the customer and see if he would accept the resolution. The case would be closed for filing. This investigation could not prove nor disprove the allegations.

On March 22, 2007, I called the complainant Mr. DENEAL at 1504 hrs., a woman's voice was on the outgoing message voice mail recorder. I left him a voice mail message that I went to the subject facility. I said that I spoke to the owner that has

chosen to drop the due bill by $1,000.00($1,700.00), so to release his car he just needs to pay $5,000.00 not $6,700. I wish to know if he accepts that offer. Could he please call me at (714) 961 – 7940.

On March 26, 2007, at 0915 hrs., Mr. DENEAL called me. He told me that he does not accept the facility's owner offer. After I told him that the facility owner said he gave him repair authorization; and that he gave him additional authorization and a deposit. Mr. DENEAL denied that. Mr. DENEAL stated that he does not know what he (the owner Mr. Shaver) means saying that he authorized the additional repair engine overhaul. He maintains that position despite my saying that Mr. Shaver showed me his signature on the final invoice acknowledgment statement giving additional authorization. I went on to say that Mr. Shaver said that he told him he had to give a deposit prior to

performing the engine overhaul. He then said that he went and gave him $3,000.00 deposit that he applied toward a due bill of $816.65 for a valve cover oil leak repair and oil filter housing. Mr. DENEAL stayed the course on his position of not giving additional authorization again saying that he would not pay $5,000.00 and would just go to small claims court. I said that I would send him case subpoena and small court information. The case would be closed for filing. The investigation could not prove nor disprove the allegations.

On April 2, 2007, I called the subject facility at (714) 953-0896 at 1336 hrs. and I spoke to the owner Ronny Shaver. I told him that the complainant has declined his resolution offer and would take the matter to small claims court. He asked me if I told that he gave him a deposit for work. I said that I told him he provided me invoices with his signature

authorizing the repairs and additional repairs. I told Mr. DENEAL that the additional engine overhaul work order authorization was also signed as well as the additional authorization. He however was not flexible with the evidence. He said he was just going to take him to small claims court. He would have to go explain his side to the judge should Mr. DENEAL take him as he say to small claims court. Mr. Shaver said That the customer said he was living on his retirement and that all he had was $3,000.00, therefore he feels he was set up him when he authorized the additional repairs. The case would be closed for filing.

On April 2, 2007, I sent the complainant Mr. DENEAL small claims court claims and subpoena information.

VIOLATIONS:

BUSINESS &PROFESSIONS CODE, DIV.

APP. 51

3.CHP.20.3, ARTICLE 3

SECTION:

9884.7(a)(1) -- False and misleading document statement.

988.7(a)(3) -- Signed document requirement.

9884.8 --- Invoice and work order requirements

9884.9 ---Written estimate verbal and written additional authorization.

CALIFORNIA CODE OF REGULATIONS TITLE 16, DIV. 33. CHP.1 ARTICLE 7

SECTIONS:

3353(a) failure to provide a customer a written estimate for parts and labor for a specific job to dispose of hazardous waste.

3353(c)(1) Failure to record additional telephone authorization date time a name of person authorizing the additional repairs, parts and labor on the work order and invoices.

3353(d) Failure to provide the customer with estimate tear down, inspect, report and reassemble in order to prepare a revised written estimate.

3353(f) Failure to obtain customer revised estimate authorization for change in the method of repairs and parts supplied then record the authorization on the work order and invoice. Failure to show the ARD number on the invoice. Failure to provide a customer an invoice copy.

3356.1 Failure to separately disclose and itemize the hazardous waste disposal on the work order and invoice. Failure to show CAL-EPA number on invoices.

3373 Failure to record all service work, and list the hazardous waste disposal on the invoices, causing the document to be false and misleading.

RECOMMENDATIONS:

Subject Facility master file.

/s/ Frank Gonzales, Jr.

Program Representative 1

DEPOSITION: Of Ronny Shaver; Pertinent Parts Where He Deny Using Prescription Narcotic Medication And Other Substances:

James Henry DENEAL Vs. Ronny's Garage Case # 07CC05611

Transcript Provided By Hutchings Court Reporters' LLC Global Legal Services (800.697.3210)

Direct Interrogatories and Answers of Ronny Shaver, a Defendant herein, noticed by James Henry DENEAL, taken at 400 North Tustin Avenue Santa Ana, California, at 1005 a.m. on Wednesday, November 28, 2007, before Heidi Hummel-Grant, CSR 12556. Hutching No. 17411-SA.

Appearances: for Plaintiff: James Henry DENEAL:

7451 Warner Avenue Unit 156, Huntington Beach CA. 92647. For Defendant Thomas R. Nigro; 100 Pacifica Avenue, Irvine CA. 92618 Witness: Ronny Shaver:

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(1). Direct Interrogatory: And Answers

(2). Direct interrogatory: No.1 Identity of person

(3). answering these questions

(4). Answer: Ronny Shaver,

(5). Direct Interrogatory: No.1.1 state the name,

(6). address, telephone No. and relationship to you of

(7). each person who prepared or assisted in the

(8) preparation of the responses to these question

(9). Answer: I consulted my attorney Thomas Nigro.

(10). I don't have his address.

(11). Direct Interrogatory No.2. General background

(12). information state your name.

(13). Answer: Ronny Shaver.

(14). Direct interrogatory: (b) state every name you

(15). have used in the past.

(16). Answer: Ron Shaver or Ronny Shaver.

(17). Direct interrogatory: state the dates you used

(18). each name.

(19). Answer: Since birth.

(20). Direct interrogatory: 2.2 state the date and

(21). place of your birth.

(22). Answer: January 14, 1958, Berlin, Germany.

(23). Direct interrogatory: No. 2.3 at the time of the

(24). incident, did you have a business license? If so

(25). state: (a) the state or other issuing entity.

(26). Answer: its' 311991, and its' a business license.

(27). Direct interrogatory: (b) The date of issuance.

(28). Answer: 3-31-2008.

(29). Direct interrogatory: (d) All restrictions.

(30). Answer: It expired 3-31-2008.

(31). Direct interrogatory: No. 2.4 at the time of the

(32). incident, did you have a driver's license for

(33). operating a motor vehicle? If so state: (a) the

(34). state or other issuing entity.

(35). Answer: yes, California.

(36). Direct interrogatory: (b) The license No. and

(37). type.

(38). Answer: the No. is N4042986, and its' for class

(39). C and M1.

(40). Direct interrogatory: the date issuance.

(41). Answer: December 1, 2004.

(42). Direct Interrogatory: (d) All restriction.

(43). Answer: none.

---

(44). Direct interrogatory: At the time of accepting

(45). the job to replace the oil filter head housing on

(46). the classic Jaguar V-12 engine were you acting

(47). as an agent or employee for any person? If so

(48). state: (a) the name, address, and phone No. of

(49). that person.

(50). Answer: I was not acting as an agent or

(51). employee for any other person.

(52). Direct interrogatory: (b) describe your duties.

(53). (example did you have to report your

(54). transaction)

(55). Answer: I don't see that here. Oh, I see. I am

(56). the owner of the business.

(57). Direct interrogatory: No. 2.12 at the time of

(58). accepting the job of replacing the oil filter head

(59). housing on the classic Jaguar's V-12 Engine did

(60). you have any physical or mental disability or

(61). money condition that may have contributed to

(62). you accepting the job? If so, state: (a) the nature

(63). of the disability or money condition.

(64). Answer: I don't have any physical, emotional,

(65). mental disabilities or money condition at the

(66). time.

(67). Direct interrogatory: (b) the manner in which

(68). the disability or money condition contribution

(69). to you accepting the job. Example (liquid

(70). vitamin B-12 intravenous medical treatment.

(71). Answer: Not applicable.

(72). Direct interrogatory: No. 2.13. At the time of

(73). accepting the job of replacing the oil filter head

(74). on the classic Jaguar's V-12 engine, did you or

(75). any person involved in your decision to accept

(76). the job use or take any of the following

(77). substances: Alcohol beverage, marijuana, or

(78). other drug or medication of any kind

(79). (prescription or not)? If so ,for each person

(80). state: (a) the name address and telephone No.

(81). Answer: No I did not take any of those

(82). substances before the job.

(83). Direct interrogatory: (b) the nature or

(84). description of each substance.

(85).Answer: Not applicable.

(86). Direct interrogatory: the quantity of each

(87). substance used or taken.

(88). Answer: Not applicable.

(89). Direct interrogatory: The date and time each

(90). substance was used or taken.

(91). Answer: Not applicable.

(92). Direct interrogatory: the name, address and

(93). telephone No. of any Health care provider who

(94). prescribed or furnished the substance and

(95). condition for which it was prescribed or

(96). furnished.

(97). Answer: Not applicable.

(98). Direct interrogatory: do you attribute any

(99). physical, mental or emotional injuries to the

(100). replacing the oil filter head housing on the

(101). classic Jaguar's V-12 engine.

(102). Answer: No and I did not replace the oil filter

(103). head housing on the Jaguar V-12 engine.

FROM JAGUAR REPAIR MANUEL XJS V-12 :

28. OIL FILTER HEAD (REMOVABLE ELEMENT TYPE, EARLY CARS)- REMOVAL AND REFITTING:

1. Remove the left-hand air cleaner.

2. Unbolt the left-hand exhaust downpipe from the manifold and from intermediate pipe. Remove the downpipe. On the left-hand drive cars. Full left steering lock must be applied before the pipe can be removed.

3. Disconnect the union on the oil cooler supply pipe.

4. Cut off the clip from the pressure relief vent hose at the nearest point to the valve.

5. Remove the oil filter canister and element.

6. Unbolt and remove the left – hand front shield.

7. Extract the four set screws which secure the filter head.

8. Tap the filter carefully to break the gasket seal and push the head upwards until the bypass valve stub pipe clears the housing.

9. separate the vent pipe from the relief valve and withdraw the filter head assembly.

10. refitting is the reversal of removal but renew the O-ring on the bypass valve stud pipe and fit a new filter head to block gasket.

Sincerely

James Henry Deneal

James Henry DENEAL |

7451 WARNER AVE. #156

HUNTINGTON BEACH CA

92647

APR 8 - 2010

No 09-807

IN THE

UNITED STATES SUPREME COURT

JAMES HENRY DENEAL

PETITIONER

V

RONNY SHAVER

RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI TO

CALIFORNIA COURT OF APPEALS FOURTH

APPELLATE DISTRICT DIVISION THREE

PETITION FOR REHEARING

JAMES HENRY DENEAL, PRO SE

7451 WARNER AVE UNIT #156

HUNTINGTON BEACH CA. 92647

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The Petitioner herein respectfully moves this Court for an order (1) vacating its denial of the petition for writ of Certiorari, entered on March 22, 2010, and (2) granting the petition As for this request, petitioner states the following

1 GROUNDS FOR REHEARING

(1) This Rehearing is made on the grounds that other substantial grounds not previously presented

(a) QUESTION PRESENTED

(1) Whether a recovering drug addict who is the sole

proprietor automotive mechanic violated the Americans with disabilities Act of 1990 and its' Amendment, when he entered into an oral contract to remove the V-12 engine from the car and replace the oil filter head housing, a strenuous job compared to high school extracurricular activities without being conspicuous with respect to his physical and mental disability from using illegal and prescription narcotic drugs, a Recovering illegal drug addict

(2) Whether a Recovering drug addict who is the sole proprietor is a qualified automotive mechanic under the Americans with Disabilities Act of 1990 and its' Amendment while currently using illegal narcotic more specifically cocaine, showing visual effects of ACROMEGALY DISEASE (long mandible

and hands) And a metal disposition of morbid apathy where there is a absence of or an indifference to reason

[DOCID f publ 325 110]
[[Page 122 STAT 3553]]
Public Law 110-325
110th Congress

An Act

To restore the intent and protections of the Americans with Disabilities Act of 1990 <<NOTE Sept 25, 2008-[S 3406]>>

Be it enacted by the Senate and House of Representatives of United States of America in Congress <<NOTE ADA Amendments Act of sec 1 Short Title

This act may be cited as the "ADA" Amendments Act of 2008" sec 2 <<NOTE 42 USC 12101 note>>

FINDING AND PURPOSES

(a)Finding –Congress finds that—

(1) in enacting the Americans with Disabilities Act of 1990 (ADA), Congress intended that the Act "provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities" and provide broad coverage,

(2) in enacting the ADA, Congress recognized that physical and mental disabilities in no way diminish a person's right to fully participate in all aspects of society, but that people with physical or mental disabilities are frequently precluded from doing so because of prejudice, antiquated attitudes, or the failure to remove societal and institutional barriers,

(3) while congress expect that the definition of disability under the ADA, would be interpreted consistently with how courts had applied the definition of a handicap individual under the Rehabilitation Act of 1973, that expectation has not been fulfilled,

(4) The holding of the U S. Supreme Court in Sutton v United Air Lines, Inc , 527 U S 471 (1999) and its companion cases have narrowed the broad scope of protection intended to afforded by ADA, thus eliminating protection for many individuals whom Congress intended to protect,

(5) The holding of the U S. Supreme Court in Toyota Motor Manufacturing, Kentucky, Inc v Williams, 534 U S 184 (2002), further narrowed the broad scope of protection intended to be afforded by ADA,

(6) As a result of these U.S Supreme Court cases, lower courts have incorrectly found in individual

cases that people with a range of substantially limiting impairments are not people with disabilities (7) In particular, the U.S Supreme Court, in the case of Toyota Motor Manufacturing, Kentucky, Inc , v Williams, 534 U S 184 (2002), interpreted the term "substantially limits" to require a greater degree of limitation than was intended by Congress

(b) Purposes -- The purposes of this Act are—
(1) To carry out the ADA's objectives of providing "a clear and comprehensive national mandate for elimination of discrimination" and "clear, strong, consistent, enforceable standards addressing discrimination "by reinstating a broad scope of protection to be available under ADA,

(2) To reject the requirement enunciated by the U S. Supreme Court in Sutton v United Air Lines, Inc , 527 U S 471 (1999) and its companion cases that whether an impairment substantially limits a major life activity is to be determined with reference to ameliorative effects of mitigating measures,

(3) To reject the U S Supreme Court's reasoning in Sutton v United Air Lines, Inc , 527 U S 471 (1999) with regard to coverage under the third prong of the definition of disability and to reinstate the reasoning of the U S Supreme Court in School Board of Nassau County v Arline , 480 U S 273 (1987) which set forth a broad view of the third prong of definition of handicap under the Rehabilitation Act of 1973,

(4) To reject the standards enunciated by the U.S Supreme Court in Toyota Motor manufacturing , Kentucky, Inc , v Williams, 534 U S 184 (2002), that the terms "substantially" and "major" in the definition of disability under the ADA "need to be interpreted strictly to create a demanding standard for qualifying as disabled, "and that to be substantially limited in performing a major life activity under ADA "an individual must have an impairment that prevents or severely restrict the individual from doing activities that are of central importance to most people's daily lives",

(5) To convey congressional intent that the standard created by the U S. Supreme in the of Toyota Motor Manufacturing, Kentucky, Inc v Williams, 534 U S 184 (2002) for "substantially limits" and applied by lower courts in numerous decisions, has created an inappropriately high level of limitation necessary to obtain coverage under the ADA, to covey that it is the intent of Congress that the primary object of attention in cases brought under the ADA should be whether entities covered under the ADA, have complied with their obligations, and to convey that the question of whether an individual's impairment is a disability under the ADA should not demand extensive analysis, and

(6) To express Congress expectation that the Equal Employment Opportunity Commission will revise

that portion of its current regulations that defines the term "substantially limits" as "significantly restricted" to be consistent with this Act, including the amendments made by this Act

Sec 3 CODIFIED FINDINGS
Section 2(a) of the American with Disabilities Act of 1990 (42 U S C 12101 is amended—
(1) By amending paragraph 91) to read as follows
"(1) physical or mental disabilities in no way diminish a person's right to fully participate in all aspects of society,
Page 122 Stat 3555]
Yet many people with physical or mental disabilities have been precluded from doing so because of discrimination, others who have a record of a disability or are regarded as having a disability also have subjected to discrimination,"
(2) By striking paragraph (7), and
(3) by re designating paragraphs (8) and (9) as paragraphs (7) and (8), respectively

Sec 4 DISABILITY DEFINED AND RULES OF CONSTRUCTION
(a) Definition of Disability –section 3 of the Americans with Disabilities Act of 1990 (42 U S C 12102) is amended to read as follows
SEC 3 DEFINITION OF DISABILITY
"As used in this Act
"(1) Disability —The term disability means, with respect to individual—

"(A) a physical or mental impairment that substantially limits one or more major life activities of such individual,

"(B) a record of such an impairment, or

"(C) being regarded as having such an impairment (as described in paragraph (3)

"(2) Major life activities —

"(A) In general —for purposes of paragraph (1), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working

"(B) Major bodily functions —for purposes of paragraph(1) a major life activity also includes the limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions

"(3) Regarded as having such an impairment –For purposed of paragraph (1)(C)

"(A) An individual meets the requirement of being regarded as having such an impairment if the individual establishes that he or she has been subjected to an action prohibited under this Act because of an actual or perceived physical or mental impairment limits or is perceived to limit a major life activity

"(B) Paragraph (1)(C) shall not apply to impairments that are transitory and minor A transitory

impairment is an impairment with an actual or expected duration of 6 months or less
"(4) Rules of construction regarding the definition of shall be construed in accordance with the following
"(A) The definition of disability in this Act shall be construed in favor of broad coverage of individuals under this Act, to the maximum extent permitted by the terms of this Act
"(B) the term substantially limits shall be interpreted consistently with the findings and purposes of the ADA Amendments Act of 2008
Page 122 Stat 3556]
"(C) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability
"(D) an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active
"(E)(i) The determination of whether an impairment substantially limits a major life activity shall be made without regarded to the ameliorative effects of mitigating measures such as—
"(I) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglass or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies,
"(II) use of assistive technology,
"(III) Reasonable accommodations or auxiliary aids

or services, or
"(IV) learned behavioral or adaptive neurological modifications
"(ii) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity
"(iii) as used in this subparagraph—
"(I) the term ordinary eyeglasses or contact lenses means lenses that are intended to fully correct visual acuity or eliminate refractive error, and
"(II) the term low-vision devices means devices that magnify, enhance or otherwise augment a visual image."
(b) conforming Amendment.—the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et. seq.) is further amended by adding after section 3 the following
"Sec. <<NOTE 42 USC 12103.>> 4. ADDITIONAL DEFINITION
"As used in this Act
"(1) Auxiliary aids and services.—the term auxiliary aids and services includes—
"(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments,
"(B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments,
"(C) acquisition or modification of equipment or devices, and

"(D) other similar services and actions
"(2) state —the term State means each of the several states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana islands "
(c) amendment to the Table of Contents —The table of contents contained in section 1(b) of the Americans with Disabilities
Page 122 Stat 3557
Act of 1990 is amended by striking the item relating to section 3 and inserting the following items
"Sec 3 Definition of disability
"Sec 4 Additional definitions "
Sec 5 DISCRIMINATION ON THE BASIS OF DISABILITY
(a) On the basis of disability —section 102 f the American with Disabilities Act of 1990 (42 U S C 12112) is amended—
(1) In subsection (a), by striking "with a disability because of the disability of such individual" and inserting "on the disability", and
(2) In subsection (b) in the matter preceding paragraph (1), by strike "discriminate" and inserting "discriminate against a qualified individual on the basis of disability"
(b) Qualification standards and Tests Related to Uncorrected vision —Section 103 of the Americas Disabilities Act of 1990 (42 U S C 12113 is amended by re designating subsections (c) and (d) as

subsections (d) and (e), respectively, and inserting after subsection
(b) the following new subsection
"(c) Qualification Standard and Tests related to uncorrected vision —Notwithstanding section 3(4)(E)(ii), covered entity shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria as used by the covered entity is shown to be job related for the position in question and consistent with business necessity "
(c) Conforming Amendments —
(1) Section 101(8) of the Americans with Disabilities Act of 1990 (42 U S C 12111(8) is amended—
(A) in the paragraph heading by striking "with a disability", and
(B) by striking "with a disability" after "individual" both places it appears
(2) Section 104(a) is amended by striking "the term qualified individual with disability "shall" and inserting "a qualified individual with a disability shall"
Sec 6 RULES OF CONSTRUCTION
(a) Title V of the Americans with Disabilities Act of 1990 (42 U S C 12201>> the following
"(e) Benefits Under State Worker's Compensation Laws —Nothing in this Act Alters the standards for determining eligibility for benefits under state worker's compensation laws or under State and Federal disability benefit programs
"(f) Fundamental Alteration —Nothing in this Act alters the provision of section 302(b)(2)(A)(ii), specifying that reasonable modifications in policies, or procedures shall be required, unless an entity can demonstrate that that

making such modification s in policies, practices, or procedures, including academic requirements in postsecondary education, would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations involved
"(g) Claims of No disability —Nothing in this Act shall provide the basis for a claim by an individual without a disability
[Page 122 Stat 3558]
That the individual was subject to discrimination because of the individual's lack of disability
"(h) Reasonable Accommodations and Modifications —A covered entity under Title I a public entity under Title II and any person who owns leases (or leases to) or operates a place or public accommodation under Title III need not provide a reasonable accommodation or a reasonable modification to policies practice or procedure to an individual who meets the definition of disability in section 3(1) solely under subparagraph (C) of such section "
(2)<<NOTE 42 USC 12206-12211, 29 USC 706 42 USC 12212, 12213 >> by re designating section 506 through 514 as sections 507 through 515, respectively and adding after section 505 the following
"Sec 506 <<NOTE 42 USC 12205a >> RULE OF CONSTRUCTION REGARDING REGULATORY AUTHORITY
"The authority to issue regulations granted to the Equal Employment Opportunity Commission, the Attorney General , and the Secretary Of Transportation under this Act includes the authority to issue regulations implementing the definitions of disability in section 3 including rules of the construction) and ADA of 2008 ",
"(3) <<NOTE 42USC 12210 >> in section 511 (as re

designated by paragraph (c) by
(b) the table of contents contained in section 1(b) of the Americans with Disabilities Act of 1990 is amended by re designating the terms relation to sections 507 through 515, respectively and by inserting after the item relating to section 505 the following new items
"Sec 506 Rule of Construction regarding Authority "
SEC 7 CONFORMING AMENDMENTS
Section 7 of the rehabilitation Act of 1973 (29 U S C 705) is amended—
(1) In paragraph (9)(B), by Striking "a physical" and all that follows through "major life activities" and inserting "the meaning given it in section 3 of the Americans with Disabilities Act of 1990 (42 U S C 12102)" ND
(2) In paragraph (20)(B) by striking "any person who" and all that follows through the period at the end and inserting "any person who has a disability as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U S C 12102) "
[Page 122 Stat 3559]
SEC 8 <<NOTE 29 USC 705 note >> Effective Date
This Act and amendments made by this Act shall become effective on January 1, 2009
Approved September 25, 2008
LEGISLATIVE HISTORY—S 3406
CONGRESSIONAL RECORD, VOL 154 (2008)
Sept 11, consideration and passed senate
Sept 17, considered and passed house

AMERICANS WITH DISABILITIES ACT OF 1990
From Wikipedia, the free encyclopedia

The American with Disability Act of 1990 (ADA) is the short title of the United States (Pub L 101-336, 104 Stat

327, enacted July 26, 1990), codified at 42 U S C sec 12101 et seq It was signed into law on July 26, 1990, by President George H Bush, and later amended with changes effective January 1, 2009 The ADA is a wide ranging civil rights law that prohibits, under certain circumstances, discrimination based on disability It affords similar protections against discrimination to Americans with disabilities as the civil rights Act of 1964, which made discrimination based on race, religion, sex, national origin, and other characteristic illegal Disability is defined as "a physical or mental impairment that substantially limits a major life activity "the determination of whether any particular condition is considered a disability is made on a case by case basis Certain specific conditions are excluded as disabilities, such as current substance abuse and visual impairment which is correctable by prescription lenses On September 25, 2008 president George W Bush signed into law the ADA Amendments Act of 2008 (ADAAA) It is intended to give broader protections for disabled workers and turn back the clock on court rulings which Congress deemed too restrictive The ADAAA includes a list of impairments to major life activities

EMPLOYMENT, SERVICES AND ACCOMMODATIONS
Title I Employment 42 USC sec 12111-12117
The ADA states that a covered entity shall not discriminate against a qualified individual with a disability This applies to job application procedures, hiring, advancement and discharge of employees, worker's compensation, job training, and other terms, conditions, and privileges of employment Covered entity can refer to an employment agency, labor organization, or joint labor management committee, and is generally an

employer engaged in interstate commerce and having or more workers Discrimination may include, among other things, limiting or classifying a job applicant or employee in an adverse way, denying employment opportunities to people who are truly qualify, or not making reasonable accommodation to the known physical or mental limitations of disabled employees, not advancing employees with disabilities in the business, and/or not providing needed accommodations in training Employers can use medical entrance examinations for applicants, after making the job offer, only if all applicants (regardless of disability) must take it and it is treated as confidential medical record Qualified individual do not include any employee or applicant who is currently engaging in the illegal use of drugs when that usage is the basis for the employers' actions

Retrieved from
http //en wikipedia org/wiki/Americans with Disabilities Act of 1990

ARGUMENT SUMMARIZED

Respondent's character, has caused him to become not protected under The Americans with Disabilities Act of 1990 and its' Amendment, because he is not a qualified individual as a automotive mechanic Specifically Respondent is a Recovering Drug Addict

who has had a relapse and is now using the illegal narcotic drug cocaine, heroin, LSD, and the prescription narcotic drugs methadone used to treat his illegal narcotic drug addiction

Proof Respondent is showing visual effects from using the illegal narcotic drugs cocaine, more specific "ACROMEGALY DISEASE" (long mandible and hands) Petitioner motion for drug test so as to verify Respondent's addiction to illegal drugs was denied the cited there was no authority for the motion and illegal narcotic drug addiction is not relevant

The Act has provided a broad range of coverage For a individual with disability, the court not giving Respondent the disability of being a Recovering drug addict is discrimination, because Congress recognize

that physical and mental disabilities in no way diminish a person's right to participate in all aspects of society Respondent participates as a Automotive Repair Mechanic, with a disability of Recovering drug addict, showing visual effects of a relapse by using cocaine identified by ACROMEGALY DISEASE (long mandible and hands) Respondent also has other disabilities physiological skin disease

Conflict Between the U S Supreme Court and California Court of Appeals fourth Appellate District Division Three

The holding of the Supreme Court in Sutton v United Air Lines, Inc , 527 U S 471 (1999) and its companion cases have narrowed the broad scope of protection intended to be afforded by ADA, thus

eliminating protection for many individuals whom Congress intended to protect

As a result of these Supreme Court cases, lower Courts have incorrectly found in individual cases that people with a range of substantially limiting impairments are not people with disabilities

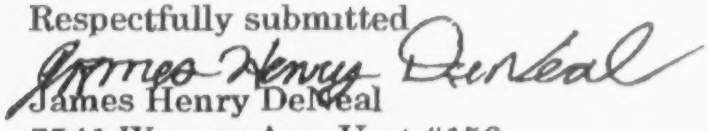
The lower Court in California a poppy state because illegal and prescription narcotic drug addiction is at an epidemic, are also in conflict with The U S Supreme Court holdings that urinalysis drug testing held do not violate federal constitution's fourth amendment, in the Case No 01 – 332 Board Of Education Of Independent School District No 92 Of Pottawatomie County, et al , Petitioner Vs Lindsay Earls et al Respondent 27-June-2002, Argued March 19, 2002

DECISION Public School District's Subjection of all students participating in District's competitive extracurricular activities to urinalysis drug testing held not to violate federal constitution fourth amendment [536 US--,153 L Ed 2d 735,122 S Ct 2559]

CONCLUSION

For the reasons set forth above, as well as those contained in the petition for certiorari, petitioner prays that this Court grant rehearing of the order of denial, vacate that order, grant the petition and review the judgment and opinion below

Respectfully submitted



James Henry DeNeal
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April 5, 2010

CERTIFICATE OF COUNSEL

As counsel for the petitioner, I hereby certify that this petition for rehearing is presented in good faith and not for delay and is restricted to the grounds specified in Rule 44 2

/s/ James Henry Percival 4-7-10
Counsel for Petitioner